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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,123	08/16/2001	Gary S. Foster	01985-P0040C	3575
24126	7590	12/05/2005	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			FELTEN, DANIEL S	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	
			3624	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,123

Applicant(s)

GARY S FOSTER ET AL

Examiner

Daniel S. Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Receipt of the Response dated September 08, 2005 is acknowledged. Claims 1-28 are pending in the application and are presented to be examined upon their merits. No amendments to the claims have been made at this time.

Response to Arguments

2. Applicant's arguments filed September 08, 2005 have been fully considered but they are not persuasive. It is respectfully submitted that references, in determining obviousness are not read in isolation but for what they fairly teach. Also it is respectfully submitted that references are evaluated by what they suggest to one versed in the art, rather than their specific disclosure [see *In re Bozek*, 163 USPQ 545 (CCPA 1969)]. In this case the primary reference, Hawkins, discloses a security trade settlement device which a trade execution information received by the computer database (see Abstract, col. 5, ll. 13+), wherein said execution information indicative of an executed trade by a first trading party (see Abstract, col. 5, ll. 13+) and software executing on said computer for comparing the block level trade executing information with the block level trade execution information, and determining that a match exists if the block level trade execution information and the block level trade order information correlate within the set of predefined acceptable trade parameters (see Abstract, col. 5, ll. 13+ and col. 6, ll. 50 to col. 7, ll. 50). The secondary reference, Sandhu discloses interactive servers that enable users to interactively trade and manage their portfolios. The 35 USC 103(a) rejection set forth above provide reasoning for the combinations of references and resolve the level of ordinary skill in the

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art. In response to applicant's piecemeal analysis of the references, the examiner respectfully submits that one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combination of references. Specifically, applicant discusses the block level trade execution information and the block level trade order information correlate within a set of predefined acceptable trade parameters. These were discussed in the previous office action dated May 25, 2005 and are presented identically in this office action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al (US 5,497,317) and Sandhu et al 6,347,307 in view of each other.

Hawkins discloses a security trade settlement device, as in claims 1, 10, which has a computer 24 (see fig. 1, col. 4, ll. 19-24)', trade execution information received by the computer database (see Abstract, col. 5, ll. 13+), said trade execution information indicative of an executed trade by a first trading party (see Abstract, col. 5, ll. 13+) ; software executing on said computer for determining block level trade execution information based upon said trade execution information (see col. 6, ll. 50 to col. 7, ll. 50),* trade order information received by said computer, said trade order information indicative of an order trade by a second trading party (see Abstract, col. 5, ll. 13+, and col. 6, ll. 50 to col. 7, ll. 50),, software executing on said computer for determining block level trade order information indicative of an order trade by a second trading party (see col. 6, ll. 50 to col. 7, ll. 50),. software executing on said computer for determining block level trade order information based upon said trade order information , ' (see col. 6, ll. 50 to col. 7, ll. 5), a set of predefined acceptable trade parameter risk and software executing on said computer for comparing the block level trade execution information with the block level trade execution information, and for determining that a match exists if the block level trade execution information and the block level trade order information correlate within the set of predefined acceptable trade parameters . (see- Abstract, col. 5, ll. 13+; and col. 6, ll. 50 to col. 7, ll. 50),. Sandhu discloses interactive servers that enable users to interactively trade and manage their portfolios (see col. 4, ll. 31+). an artisan of ordinary skill in the art at the time of the invention would have been motivated to substitute the interactive servers in Sandhu for the central database in Hawkins as an alternative communications link between the system and the requirements that may be imposed to execute a transaction. Thus such a modification would have been an

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obvious expedient to one of ordinary skill in the art. One would also recognize the convenience of interactive servers being used for different purposes would increase the speed and efficiency of the transactions. On the other hand, one of ordinary skill in the art at the time of Sandhu would have sought to provide a database with a plurality of delivery instructions to comply with the requirements that may be imposed to execute a transaction. Thus such a modification would have been an obvious expedient to one of ordinary skill in the art.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed; and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF

November 25, 2005

Daniel S Felten
Examiner
Art Unit 3624

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

